

**JOHN M. SCAGNELLI** | Partner | Chair, Environmental and Land Use Law Group  
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September 9, 2021

**BY EMAIL AND REGULAR MAIL**

Pamela Tames, P.E.  
Remedial Project Manager  
Superfund and Emergency Management Division  
U.S. Environmental Protection Agency  
290 Broadway, 19<sup>th</sup> Floor  
New York, New York 10007-1866

**Re: Pierson's Creek Superfund Site - Newark, New Jersey  
Request for Information Pursuant to 42 U.S.C. § 9601-9675-  
Prologis Newark Wilson Associates, LLC  
Our File No.: 9115.3000**

Dear Ms. Tames:

This office is responding on behalf of Prologis Newark Wilson Associates, LLC ("Prologis Newark") to the United States Environmental Protection Agency, Region 2's ("EPA") June 1, 2021 Request for Information pursuant to 42 U.S.C. § 9601-9675 relating to the Pierson's Creek, Superfund Site in Newark, N.J. ("Information Request").

Prologis Newark makes the following general qualifications and objections to EPA's Information Request:

- Prologis Newark objects to the Request insofar as it seeks privileged information, including any and all communications and documents that are protected from disclosure by either the attorney-client privilege or attorney-work product doctrine;
- Prologis Newark objects to the Request to the extent it seeks information beyond the scope of EPA's authority under CERCLA § § 9601(10), 9601(14) and 9601(33);
- Prologis Newark objects to the Request to the extent that it is vague, ambiguous, overbroad or unduly burdensome;

- Prologis Newark reserves the right to supplement and revise its response, and reserves the right to assert additional objections as it continues to evaluate its responses.

Notwithstanding the foregoing, and without waiving any of the foregoing qualifications and objections, Prologis Newark has responded to each numbered request below.

### **REQUEST FOR INFORMATION**

#### **REQUEST NO. 1:**

Please answer the following questions with respect to Prologis:

- a. State the legal name of the company.
- b. State the name and address of the president or the chairman of the board, or other presiding officers of the company.
- c. Identify the state of incorporation of the company and the company's agent for service of process in the state of incorporation and in New Jersey.
- d. State whether Prologis is a subsidiary or affiliate of another company. If so, please identify the name of each such related company. For each related company, describe the relationship to Prologis and indicate the date and manner in which each relationship was established.

#### **RESPONSE:**

- a. Prologis Newark Wilson Associates, LLC ("Prologis Newark").
- b. Prologis Newark does not have a board of directors or officers. Management of Prologis Newark is vested in its sole member, Prologis, L.P., a Delaware limited partnership. Management of Prologis, L.P. is vested in its general partner, Prologis, Inc., a Maryland corporation. Prologis, Inc. is a publicly traded corporation and information regarding its board of directors and presiding officers can be found in the Proxy Statement attached as Annex A.
- c. Prologis Newark is a Delaware limited liability company. Its agent for service in Delaware and New Jersey is Corporation Service Company.
- d. As described in Section 1.b, Prologis Newark is an indirect subsidiary of Prologis, Inc. In October 2015, Prologis, L.P. acquired 100% of the membership interest in Morris Realty Associates, LLC ("MRA") pursuant to an UPREIT structured transaction, in order to acquire a property portfolio owned by MRA (the "Transaction"). In connection with the Transaction, the Property-owning entity (i.e., Morris Newark Wilson Associates, LLC, now known as Prologis Newark Wilson Associates, LLC) was assigned to Prologis, L.P. A copy of the press release announcing the completion of the Transaction and the certificate of formation reflecting the corporate name change are attached as Annex B.

## REQUEST NO. 2.

Does Prologis own the Property located at 338 Wilson Avenue in Newark, New Jersey? If so, from whom did Prologis purchase the Property and in which year? Please describe the relationship, if any, between Prologis and any of the parties that owned or operated at the Property prior to Prologis.

a. Please provide a copy of Prologis' deed or deeds to the Property. If the Property is held in the name of another entity, please identify the name of the entity, its relationship to Prologis and list the company president or chairman of the board or other presiding officers of that company.

b. If this information has not already been previously provided in your responses to the questions above, please describe how Albert Steel Drum is or was connected to the Property and if Albert Steel Drum has or had any relationship with Prologis.

c. If this information has not already been previously provided in your responses to the questions above, please describe how Prentiss Drug and Chemical Company is or was connected to the Property and if Prentiss Drug and Chemical Company has or had any relationship with Prologis.

d. If this information has not already been previously provided in your responses to the questions above, please describe how Tony Pallet, Inc. is or was connected to the Property and if Tony Pallet, Inc. has or had any relationship with Prologis.

e. If this information has not already been previously provided in your responses to the questions above, please describe how The Morris Companies is or was connected to the Property and if The Morris Companies has or had any relationship with Prologis.

f. If applicable, provide a list of all past and current tenants and/or operators at the Property. Describe the nature of business and activities performed by each tenant and/or operator at the Property.

## RESPONSE:

Prologis Newark owns the Property located at 338 Wilson Avenue in Newark, New Jersey. See the Response to Request No. 1.d above.

a. See January 19, 2006 Deed between Morris Wilson Avenue Associates, LLC and Morris Newark Wilson Associates, LLC, attached as Annex C. See also, Response to Request No. 1.d above.

b. Prologis Newark has never had any relationship with Albert Steel Drum and is without direct knowledge or information regarding how Albert Steel Drum is or was connected to the Property.

c. Prologis Newark has never had any relationship with Prentiss Drug and Chemical Company and is without direct knowledge or information regarding how Prentiss Drug and Chemical Company is or was connected to the Property.

d. Prologis Newark has never had any direct relationship with Tony Pallet, Inc. and is without direct knowledge or information regarding how Tony Pallet, Inc. is or was connected to the Property.

e. See the Responses to Request Nos. 1.d and 2.a above on January 19, 2006, the Property was transferred from Morris Wilson Avenue Associates, LLC to Morris Newark Wilson Associates, LLC. Upon information and belief, at the time of that 2006 transaction, both entities were wholly owned subsidiaries of MRA.

f. The Property was vacant when it was acquired in 2006. FedEx Freight, East, Inc. ("FedEx") has been the only tenant at the Property since in or about November 2005 and FedEx's operation/tenancy has been unchanged since then.

### **REQUEST NO. 3.**

Describe all investigations and/or remediation of the Property Prologis undertook prior to acquiring it and provide all reports, permits, sampling results, remediation plans, and correspondence relating to the operations, the environmental conditions, and the status of any investigations/remediation efforts at the Property. Please include with your answer to this question:

a. Any documentation and sampling data related to the storage, use, removal, and disposal of chemical storage drums located at the Property;

b. Any documentation and sampling data related to any fill located at the Property;

c. Any documentation and sampling data related to any drainage ditches or culverts located on the Property; and

d. The federal, state, and/or local authority under which such investigations and/or remediation were carried out, and whether a Licensed Site Remediation Professional or other environmental professional was engaged in connection with the work.

### **RESPONSE:**

Investigations and remediation of the Property undertaken by Morris Wilson Avenue Associates, LLC since 2006 are described in the following reports:

Supplemental Groundwater Remedial Investigation Report/Remedial Action Workplan dated January 2020, Off-Site Preliminary Assessment Report dated December 2020, and June 2009 Groundwater Status Report. Additionally, a groundwater remedial action involving the monitoring of arsenic in groundwater on a quarterly basis is presently ongoing under the oversight of James P. Mack, LSRP. These investigations and remediation activities have been performed pursuant to and in accordance with the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B1

et seq. and the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq. and the regulations promulgated thereunder at N.J.A.C.7:26C-1 et seq. and N.J.A.C. 7:26E-1 et seq.

A copy of the Vertex Phase 1 Environmental Site Assessment prepared for Prologis L.P. in connection with the October 2015 transaction is attached as Annex D.

a. The remediation reports referenced above do not contain any documentation or sampling data related to the storage, use, removal, and disposal of chemical storage drums located at the Property.

b. The remediation reports referenced above do not contain any documentation and sampling data related to any fill located at the Property

c. The remediation reports referenced above do not contain any documentation or sampling data related to any drainage ditches or culverts located on the Property

d. The investigations and remediation activities referenced above have been performed under the oversight of an LSRP pursuant to and in accordance with the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq. and the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq. and the regulations promulgated thereunder at N.J.A.C.7:26C-1 et seq. and N.J.A.C. 7:26E-1 et seq.

#### **REQUEST NO. 4.**

Is there a groundwater Classification Exception Area ("CEA") currently filed for the Property? Please provide all relevant information, including the most recent report on the CEA.

#### **RESPONSE:**

There are two groundwater Classification Exception Areas ("CEAs") filed for the Property; one for Historic Fill and one for Arsenic. See the NJDEP Classification Exception Area/Well Restriction Area ("CEA/WRA") Fact Sheet Forms attached as Annex E.

#### **REQUEST NO. 5.**

Regarding any drainage ditches or culverts currently and formerly located on the Property:

a. Please describe the location of such ditches or culverts and where each ditch or culvert drains to.

b. Please describe the type and annual amount of materials and/or substances that drained into such ditches or culverts while Prologis has owned or operated at the Property. Provide any documentation and information related to the type of material and/or substances which entered and subsequently drained from the Property's ditches or culverts.

**RESPONSE:**

a. See the May 27, 1981 Housing Authority - City of Newark Subdivision Plat Map and April 2005 Aerial Photo of the Albert Steel Drum Site, attached as Annex F.

b. There were no ditches or culverts present at the Property since 2006 while Prologis Newark has owned or operated at the Property.

**REQUEST NO. 6.**

Did Prologis make any improvements to or utilize any institutional/engineering controls on the Property? If so, please describe the improvements and/or institutional/engineering controls and provide all related documents and information, including but not limited to the location of such improvements and/or institutional/engineering controls and the materials utilized.

**RESPONSE:**

The Property was redeveloped as a FedEx Terminal Facility. FedEx took possession of the Property in or about November 2005. See the November 2005 Aerial Photograph and 2017 Deed Notice and related documentation attached as Annex G.

**REQUEST NO. 7.**

Were any waste water or stormwater collection, transport or disposal systems located on or providing service to the Property connected to the Passaic Valley Sewerage Commission ("PVSC") during the time Prologis owned the Property? If so, please provide all related documents and information, including but not limited to, the date from which the sewer system was connected to the PVSC.

**RESPONSE:**

Prologis Newark does not have any information regarding any connection to the PVSC. Prologis will request any such available information from FedEx and forward to EPA upon receipt.

**REQUEST NO. 8.**

Please describe Prologis's business operations at the Property.

**RESPONSE:**

Prologis Newark did not conduct any operations at the Property. The only tenant at the Property since its redevelopment has been FedEx.

**REQUEST NO. 9.**

Did Prologis ever receive, utilize, manufacture, discharge, release, store, dispose of or otherwise handle any hazardous substances, pollutants or contaminants at the Property? If the answer to the preceding question is anything but an unqualified "no," identify:

- a. In general terms, the nature and quantity of the hazardous substances, pollutants or contaminants so received, utilized, manufactured, discharged, released, stored, disposed of, or otherwise handled.
- b. The chemical composition, characteristics, physical state (e.g., solid, liquid) of each hazardous substance, pollutant or contaminant.
- c. The persons/entities who supplied/continue to supply Prologis with each such hazardous substance, pollutant or contaminant.
- d. How, when, and where each such hazardous substance, pollutant or contaminant was received, utilized, manufactured, discharged, released, stored, disposed of, or otherwise handled.
- e. The quantity, calculated per year, of each such hazardous substance, pollutant or contaminant received, utilized, manufactured, discharged, released, stored, disposed of, or otherwise handled.

**RESPONSE:**

No.

**REQUEST NO. 10.**

Did Prologis or any prior owner receive, utilize, manufacture, discharge, release, storage or disposal of the materials listed in subparts aa) to hh) below or any prior owner receive, utilize, manufacture, discharge, release, store or dispose of any materials containing any of the following substances at the Property:

- a. 1, 1- Dichloroethane (Yes/No)?
- b. 1, 1, 1- Trichloroethane (Yes/No)?
- c. 2, 3, 7, 8 — tetrachlorodibenzo-p-dioxin (Yes/No)?
- d. Other dioxin compounds (Yes/No)?
- e. Aldrin (Yes/No)?
- f. Antimony (Yes/No)?
- g. Arsenic (Yes/No)?

- h. Benzene (Yes/No)?
- i. Cadmium (Yes/No)?
- j. Chromium (Yes/No)?
- k. Chlordane (Yes/No)?
- l. Dichloro-diphenyl-trichloroethane (DDT) (Yes/No)?
- m. Dieldrin (Yes/No)?
- n. Ethyl benzene (Yes/No)?
- o. Iron (Yes/No)?
- p. Lead (Yes/No)?
- q. Lindane (Yes/No)?
- r. Manganese (Yes/No)?
- s. Mercury (Yes/No)?
- t. Naphthalene (Yes/No)?
- u. Other volatile organic compounds (VOCS) (Yes/No)? If "Yes," please list the specific compounds.
- v. Other semi-volatile organic compounds (SVOCs) (Yes/No)? If "Yes," please list the specific compounds.
- w. Pentachlorophenol (Yes/No)?
- x. Perfluorooctanoic acid (PFOA) (Yes/No)?
- y. Perfluorooctanesulfonic acid (PFOS) (Yes/No)?
- z. Other Per- and polyfluoralkyl substances (PFAS) (Yes/No)? If "Yes," please list the specific compounds, if known.
- aa. Polyaromatic Hydrocarbons (PAHs) (Yes/No)? If "Yes," please list the specific compounds.
- bb. Polychlorinated biphenyls (PCBs) (Yes/No)? If "Yes," please list the specific Aroclors or other formulations.
- cc. Silver (Yes/No)?



- dd. Toluene (Yes/No)?
- ee. . Total Petroleum Hydrocarbons (TPH) (Yes/No)?
- ff. Vinyl Chloride (Yes/No)?
- gg. Xylene (Yes/No)?
- hh. Zinc (Yes/No)?

**RESPONSE:**

As to Prologis Newark, no. As to prior owners, Prologis Newark is without direct knowledge or information regarding any receipt, use, manufacture, discharge, release, storage or disposal of any materials containing any of the above listed substances at the Property.

**REQUEST NO. 11.**

Describe the methods of collection, storage, treatment, and disposal of all hazardous substances, pollutants or contaminants utilized by Prologis at the Property, including, but not limited to, the substances identified in your responses to questions 9 and 10.

**RESPONSE:**

See the responses to Requests Nos. 9 and 10.

**REQUEST NO. 12.**

Were any hazardous substances, pollutants or contaminants, including, but not limited to, the substances identified in your responses to questions 9 and 10, above, disposed of in or discharged to Pierson's Creek including its unnamed tributaries? If yes, identify the substances, estimate the amount of material discharged to or disposed of in Pierson's Creek or its tributaries, the location of the discharges/disposals, and the frequency with which such discharges or disposals occurred. Please provide the results of any sampling of the Creek or unnamed tributaries which may have been done after any discharge or disposal.

**RESPONSE:**

See the responses to Requests Nos. 9 and 10.

**REQUEST NO. 13.**

Please identify any leaks, spills, explosions, fires or other incidents of accidental material discharge that occurred at the Property, which resulted in hazardous substances, pollutants or contaminants, including, but not limited to, the substances identified in your responses to questions 9 or 10, being released on the Property, into the waste water or stormwater drainage system at the Property, or to Pierson's Creek or its tributaries. Provide any documents or information relating to

these incidents, including the ultimate disposal location of such contaminated materials. If available, please provide the results of any sampling of the soil, water, air or other media after any such incident and before and after clean-up.

**RESPONSE:**

None.

**REQUEST NO. 14.**

Has the Property ever flooded while it was owned or occupied by Prologis? If so, how often did the flooding occur on the Property? Have storm sewer back-ups occurred at the Property, and/or did Pierson's Creek or its unnamed tributaries overflow their banks onto the Property?

**RESPONSE:**

No.

**REQUEST NO. 15.**

If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

**RESPONSE:**

Not applicable.

**REQUEST NO. 16.**

Is Prologis a successor to any liabilities, including those under CERCLA, of any other company with respect to the Property? If so, please identify the other company, the liabilities to which your company succeeded, and how Prologis succeeded to the identified liabilities. Please provide copies of any agreements or other records documenting the basis for your answer.

**RESPONSE:**

No.

**REQUEST NO. 17.**

Please provide all agreements or contracts, including but not limited to insurance policies, which may indemnify your company or business, and its present or past owners, operators, partners, and/or shareholders, with respect to any liability they be found to have under CERCLA for costs incurred by EPA to address releases and threatened releases of hazardous substances at the Site.

a. In responding to this request, please provide not only those insurance policies and agreements currently in effect, but also those that were in effect from the date your company began operation at, or acquired ownership of, the Property to the present.

b. If you have not retained such policies but have information concerning them, please provide the following information: i) the name and address of the insurance company; (ii) policy number/account; (iii) the type of coverage provided under each policy; (iv) the commencement and expiration dates for each policy; (v) whether or not the policy contains a "pollution exclusion" clause; and (vi) whether the policy covers or excludes sudden, non-sudden or both types of accidents.

**RESPONSE:**

a., b. See the June 1, 2004 Prospective Purchaser Agreement between the New Jersey Department of Environmental Protection and Morris Realty Associates, LLC and the Environmental Indemnity and Escrow Agreement dated October 7, 2015 respectively attached as Annexes H and I.

**REQUEST NO. 18.**

Please provide a detailed description of any civil, criminal, or administrative proceedings against Prologis for violations of any local, state, or federal laws or regulations relating to water pollution or hazardous waste generation, storage, transport, or disposal at or from the Property. Provide copies of all pleadings and depositions or other testimony given in these proceedings.

**RESPONSE:**

None.

**REQUEST NO. 19.**

Provide the name, address, telephone number, title, and occupation of the person(s) answering this Request for Information and state whether such person(s) has personal knowledge of the information provided in the responses. In addition, identify each person who assisted in any way in responding to the Request for Information and specify the question to which each person assisted in responding. Please include the names and addresses of former employees who were contacted to respond to any of the questions.

**RESPONSE:**

**As to information from October 2015 to the present:**

Julia Smith, Director, Environmental & Engineering  
Prologis  
Pier 1 Bay 1  
San Francisco, California 94111  
Julia4@prologis.com

Sincerely,

/s/ John M. Scagnelli

JOHN M. SCAGNELLI  
For the Firm

**CERTIFICATION OF RESPONSES TO REQUEST FOR INFORMATION**

State of California

County of Alameda

I certify under penalty of perjury that I am authorized to respond on behalf of Prologis Newark Wilson Associates, LLC, I have personally examined and am familiar with the information and all documents submitted in response to EPA's Request for Information, and based on my inquiry of those individuals immediately responsible for obtaining the information I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic for the period from October 2015 unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that Prologis Newark Wilson Associates, LLC is under a continuing obligation to supplement this response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me or Prologis Newark Wilson Associates, LLC after submitting this response.

Executed on \_\_\_\_\_, 2021

\_\_\_\_\_  
JULIA SMITH  
DIRECTOR, ENVIRONMENTAL & ENGINEERING

DocuSigned by:



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SIGNATURE

cc: Amelia Wagner, Asst. Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
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